

EXECUTIVE OFFICER SUMMARY REPORT
June 12, 2002

ITEM: 5

SUBJECT: Administrative Assessment of Civil Liability containing a Mandatory Minimum Penalty against Manchester Resorts (San Diego Hyatt Hotel Expansion) for violation of Order No. R9-2000-0090, NPDES Permit No. CAG919001, General Waste Discharge Requirements for Temporary Groundwater Extraction and Similar Waste Discharges to San Diego Bay and Storm Drains or Other Conveyance Systems Tributary Thereto. (*Frank Melbourne*).

PURPOSE: Manchester Resorts waived its right to a hearing. The Regional Board will consider comments received during the public review period and decide whether to adopt tentative Order No. R9-2002-0120 assessing liability (*Document No. 1*). If the Regional Board does not adopt the tentative Order, a hearing will be rescheduled for a future Regional Board meeting.

PUBLIC NOTICE: On April 19, 2002, the public was informed of the proposed settlement of liability in the May 8, 2002 Regional Board Meeting Agenda Notice. Also, a public notice requesting comments on Regional Board Amended Complaint No. R9-2002-0111 for Administrative Civil Liability for Mandatory Minimum Penalties (*Document No. 2*) and Manchester Resorts signed waiver of public hearing form (*Document No. 3*) was published in the San Diego Union-Tribune on May 13, 2002 (*Document No. 4*). As of May 30, 2002, no comments concerning the settlement of liability have been received.

DISCUSSION: On April 3, 2002, the Executive Officer issued Complaint No. R9-2002-0111 to Manchester Resorts for violations of Order No. R9-2000-0090 (General Dewatering Permit for discharges to San Diego Bay). Manchester Resorts is expanding the downtown San Diego Hyatt hotel. Construction activities necessitated pumping of intruding groundwater which is discharged into a City of San Diego storm drain connected to San Diego Bay. Pumping began on July 13, 2001 and ceased on April 26, 2002. Although Manchester Resorts was initially limited to discharging 300,000 gallons per day, the amount was increased to 500,000 gallons per day on August 27, 2001. Manchester Resorts reported five Total

Suspended Solids (TSS) violations, one settleable solids violation, one copper violation and one flow violation within a six-month period (August 2001 through February 2002). On April 17, 2002 the Complaint was amended deleting the flow violation based upon additional information submitted by Manchester Resorts. Later that day Manchester Resorts signed and submitted a waiver of hearing form agreeing to the terms of the Complaint.

LEGAL CONCERNS: None.

**SUPPORTING
DOCUMENTS:**

1. Tentative Order No. R9-2002-0120
2. Amended Complaint No. R9-2002-0111
3. Signed Waiver of Right to a Hearing form
4. Affidavit of Publication in the San Diego Union-Tribune

RECOMMENDATION(S): Adopt tentative Order No. R9-2002-0120.